

Introduced by Senator De León

February 22, 2013

An act to amend Section ~~25199.6~~ of 25200 of, and to add Section 25200.20 to, the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 812, as amended, De León. Hazardous waste: facilities permitting.

Existing law requires the facilities handling hazardous waste to obtain a permit from the Department of Toxic Substances Control. Existing law requires an owner or operator of the facility intending to renew the facility's permit to submit a complete Part A application for a permit renewal prior to the expiration of the permit. Existing law requires the owner or operator to submit a complete Part B of the application when requested by the department.

This bill would require the owner or operator intending to renew the facility's permit to submit a complete Part B application prior to the expiration of the permit. The bill would require the department to approve or deny the application for permit renewal within 36 months of the expiration of the facility's permit. The bill would deem an application for permit renewal be denied if the department fails to approve or deny the application within that time period.

Existing law authorizes a hazardous waste facility in existence on a specified date or on the effective date of any statute or regulation that subjects the facility to the hazardous waste permitting requirements to continue to operate under a grant of interim status pending the review and decision of the department on the permit application.

This bill would provide that interim status granted on or after January 1, 2015, terminates 5 years from the date the interim status is granted or on the date the department took final action on the application for a permit, whichever is earlier.

~~Existing law requires hazardous waste facilities to operate under hazardous waste facilities permits or grants of authorization issued by the Department of Toxic Substances Control. Existing law establishes procedures for a land use decision by a local agency concerning a hazardous waste facility project, as defined. The department is required to review for completeness each application for a hazardous waste facilities permit and to notify the applicant within 30 days of receipt whether the application is complete.~~

~~This bill would increase to 60 days the time in which the department is required to make that notification to an applicant.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) *The Legislature finds and declares all of the*
2 *following:*

3 (1) *The mission of the Department of Toxic Substances Control,*
4 *as noted in its mission statement, is “to protect California’s people*
5 *and environment from harmful effects of toxic substances through*
6 *the restoration of contaminated resources, enforcement, regulation*
7 *and pollution prevention.”*

8 (2) *In an effort to protect the public health and minimize*
9 *environmental impacts, the state requires that each hazardous*
10 *waste management facility that treats, stores, handles, or disposes*
11 *of hazardous waste obtain a permit or other authorization from*
12 *the department.*

13 (3) *Currently, the department regulates 117 facilities across*
14 *the state that store, treat, or dispose of hazardous waste. Of these*
15 *facilities, nearly a quarter are operating on permits whose original*
16 *expiration dates have passed.*

17 (4) *One facility operated by Exide Technologies in Vernon,*
18 *California has been allowed to operate on an interim permit for*
19 *over 30 years, regardless of its repeated violations of*
20 *environmental and public health standards.*

1 (5) *Unfortunately, many communities continue to suffer with*
2 *toxic emissions and releases with limited protection from our*
3 *current hazardous waste management regulatory system.*

4 (6) *The longstanding problems at the Exide Technologies facility*
5 *are only the most recent examples of the system's failures.*

6 (b) *It is the intent of the Legislature to strengthen our hazardous*
7 *waste management regulatory system to better protect vulnerable*
8 *communities and residents from toxic pollution by addressing*
9 *loopholes in the permitting system.*

10 SEC. 2. *Section 25200 of the Health and Safety Code is*
11 *amended to read:*

12 25200. (a) The department shall issue hazardous waste
13 facilities permits to use and operate one or more hazardous waste
14 management units at a facility that in the judgment of the
15 department meet the building standards published in the State
16 Building Standards Code relating to hazardous waste facilities and
17 the other standards and requirements adopted pursuant to this
18 chapter. The department shall impose conditions on each hazardous
19 waste facilities permit specifying the types of hazardous wastes
20 that may be accepted for transfer, storage, treatment, or disposal.
21 The department may impose any other conditions on a hazardous
22 waste facilities permit that are consistent with the intent of this
23 chapter.

24 (b) The department may impose, as a condition of a hazardous
25 waste facilities permit, a requirement that the owner or operator
26 of a hazardous waste facility that receives hazardous waste from
27 more than one producer comply with any order of the director that
28 prohibits the facility operator from refusing to accept a hazardous
29 waste based on geographical origin that is authorized to be accepted
30 and may be accepted by the facility without extraordinary hazard.

31 (c) (1) (A) ~~Any~~ A hazardous waste facilities permit issued by
32 the department shall be for a fixed term, which shall not exceed
33 10 years for any land disposal facility, storage facility, incinerator,
34 or other treatment facility.

35 (B) ~~Before the fixed term of a permit expires, the~~ The owner or
36 operator of a facility intending to extend the term of the facility's
37 permit shall submit a complete Part A *and Part B* application for
38 a permit renewal. ~~At any time following the submittal of the Part~~
39 ~~A application, the owner or operator of a facility shall submit a~~
40 ~~complete Part B application, or any portion thereof, as well as any~~

1 *renewal before the fixed term of the permit expires. Any other*
2 *relevant information, information shall be submitted as and when*
3 *requested by the department. To the extent not inconsistent with*
4 *the federal act, when a complete Part A renewal application, and*
5 *any other requested information, has been submitted before the*
6 *end of the permit's fixed term, the permit is deemed extended until*
7 *the renewal application is approved or denied and the owner or*
8 *operator has exhausted all applicable rights of appeal.*

9 *(C) To the extent not inconsistent with the federal act, for an*
10 *owner or operator in compliance with subparagraph (B), the permit*
11 *is deemed extended until the renewal application is approved or*
12 *denied and the owner or operator has exhausted all applicable*
13 *rights of appeal.*

14 *(D) (i) The department shall approve or deny the application*
15 *for permit renewal for a facility within 36 months following the*
16 *expiration of the permit's fixed term. An application for permit*
17 *renewal is deemed denied if the department fails to act within 36*
18 *months following the expiration of the permit's fixed term.*

19 *(ii) Notwithstanding clause (i), for a facility with a permit that*
20 *expired on or before January 1, 2015, and for which an application*
21 *for permit renewal had been submitted before January 1, 2015,*
22 *the department shall approve or deny the application on or before*
23 *January 1, 2018. An application for permit renewal is deemed*
24 *denied if the department fails to act on or before January 1, 2018.*

25 ~~(E)~~

26 *(E) This section does not limit or restrict the department's*
27 *authority to impose any additional or different conditions on an*
28 *extended permit that are necessary to protect human health and*
29 *the environment.*

30 ~~(F)~~

31 *(F) In adopting new conditions for an extended permit, the*
32 *department shall follow the applicable permit modification*
33 *procedures specified in this chapter and the regulations adopted*
34 *pursuant to this chapter.*

35 ~~(G)~~

36 *(G) When prioritizing pending renewal applications for*
37 *processing and in determining the need for any new conditions on*
38 *an extended permit, the department shall consider any input*
39 *received from the public.*

(2) The department shall review each hazardous waste facilities permit for a land disposal facility five years after the date of issuance or reissuance, and shall modify the permit, as necessary, to assure that the facility continues to comply with the currently applicable requirements of this chapter and the regulations adopted pursuant to this chapter.

(3) This subdivision does not prohibit the department from reviewing, modifying, or revoking a permit at any time during its term.

(d) (1) When reviewing any application for a permit renewal, the department shall consider improvements in the state of control and measurement technology as well as changes in applicable regulations.

(2) Each permit issued or renewed under this section shall contain the terms and conditions that the department determines necessary to protect human health and the environment.

(e) A permit issued pursuant to the federal act by the Environmental Protection Agency in the state for which no state hazardous waste facilities permit has been issued shall be deemed to be a state permit enforceable by the department until a state permit is issued. In addition to complying with the terms and conditions specified in a federal permit deemed to be a state permit pursuant to this section, an owner or operator who holds that permit shall comply with the requirements of this chapter and the regulations adopted by the department to implement this chapter.

SEC. 3. Section 25200.20 is added to the Health and Safety Code, to read:

25200.20. Interim status granted for a facility pursuant to Section 25200.5 on or after January 1, 2015, shall terminate five years from the date the interim status is granted or on the date the department takes final action on the application for a hazardous waste facilities permit, whichever is earlier.

~~SECTION 1. Section 25199.6 of the Health and Safety Code is amended to read:~~

~~25199.6. (a) Section 65943 of the Government Code does not apply to the department's review of applications for a hazardous waste facilities permit. The department shall review for completeness each application for a hazardous waste facilities permit and notify the applicant in writing whether the application is complete within 60 days from the date of receipt. If the~~

1 application is incomplete, the department shall require the applicant
2 to provide the information necessary to make the application
3 complete. An application is not deemed to be complete until the
4 department notifies the applicant that the application is complete.
5 After an application is determined to be complete, the department
6 may request additional information only when necessary to clarify,
7 modify, or supplement previously submitted material.

8 (b) Notwithstanding Section 65952 of the Government Code,
9 any public agency that is a responsible agency for a hazardous
10 waste facility project that is a land disposal facility shall approve
11 or disapprove the project within one of the following periods of
12 time, whichever is longer:

13 (1) Within one year from the date on which the lead agency
14 approved or disapproved the project.

15 (2) Within one year from the date on which the completed
16 application for the project has been received, and accepted as
17 complete, by that responsible agency.

18 (c) Notwithstanding Section 65952 of the Government Code
19 and Section 25199.2, any public agency that is a responsible agency
20 for a hazardous waste facility project that is not a land disposal
21 facility shall approve or disapprove the project within one of the
22 following periods of time, whichever is longer:

23 (1) Within 180 days from the date on which the lead agency
24 approved or disapproved the project.

25 (2) Within 180 days from the date on which the completed
26 application for the project has been received, and accepted as
27 complete, by that responsible agency.

28 (d) Subdivision (b) of Section 65956 of the Government Code
29 does not apply to the failure of a lead agency or responsible agency
30 to approve or disapprove a permit for a hazardous waste facility
31 project within the time limits established by Sections 65950 and
32 65952 of the Government Code and subdivisions (b) and (c) of
33 this section. If a lead agency or a responsible agency fails to act
34 within those time limits, the applicant may file an action pursuant
35 to Section 1085 of the Code of Civil Procedure to compel the
36 agency to approve or disapprove the permit for the project within
37 a reasonable time, as the court may determine.